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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,285	12/15/2003	Seiji Miyamoto	2018-804	1799
23117	7590	06/07/2006	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			BROADHEAD, BRIAN J	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/734,285

Applicant(s)

MIYAMOTO ET AL.

Examiner

Brian J. Broadhead

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 9 and 14 are objected to because of the following informalities:
2. In claim 9, line 11, the limitation "a different control apparatus for a vehicle" is recited. It is not clear what the control apparatus is different from since it is the first mention of a control apparatus
3. In claim 9, on lines 14-16, and 18, there a several "data" recited. It is suggested that the language used be more consistent. For example, on lines 14 and 15, it appears that the two data mentioned are the same data, but one is called "the data provided by the application program" and the other is "the data provided from the processing using the application program". In line 18, "converted data" appears to be referring to a previously presented data in the claim, but as it is currently written the connection to the previously recited data is not made.
4. In claim 14, on line 23, the limitation "the coupling program" is recited. It appears that this is meant to refer to "the coupling processing program component". Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 9 recites the limitation "the data" in line 16. There is insufficient antecedent basis for this limitation in the claim. There are several instances of "data" recited in the claim and it is not absolutely clear which one is being referred to.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 9 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim is directed towards a computer program product that is functional descriptive material that is not embodied on computer related media and is not capable of causing functional change in a computer.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 9 and 14 are rejected under 35 U.S.C. 102(b) as being fully anticipated by Sakai et al., 6343249.

7. Sakai et al. disclose a platform program for making a computer execute processing for acquiring data and outputting data based on the acquired data on lines 50-59, on column 7, and all of column 4, the "other ECUs" of the prior art are disclosed as performing other functions based data communicated to them from additional ECUs

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and their sensors; an application program for making the computer execute processing for generating data of an output object on lines 64-67, on column 6; a coupling processing program on lines 44-48, on column 7; the platform program is a program for acquiring an output from processing using the coupling processing program in accordance with a PF interface as an interface standardized so as to be commonly utilized by processing using the application program made in accordance with a required specification of a different control apparatus on lines 41-59, on column 7, and lines 45-55, on column 2; the coupling processing program has a command code for making the computer execute processing to acquire the data provided by the application program and to convert the data provided from the processing using the application program so that the data is adapted to the PF interface in accordance with and AP interface satisfying the required specification of the control apparatus for a vehicle of a developing object, and to mediate converted data in the processing using the platform program on lines 15-51, on column 7; the execution of the application program provides the generated data of the output object to storage memory dedicated to the application program, and wherein the execution of the coupling program automatically acquired the generated data from the storage memory on lines 15-25, on column 7, the dedicated storage memory for the application program are the places in the common memory where each part of control data is stored by the application program or in the case of the prior art application software 110, 120. The control program takes these values and converts them to values for the "other ECUs" or control objects.

Response to Arguments

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8. Applicant's arguments filed 3-17-06 have been fully considered but they are not persuasive. The distinction that is trying to be made by the amendment to the claims does not overcome the prior art. The suggestion that since the cited prior art discloses a "common memory" that this precludes the previous invention from having memory locations for the application program. This isn't the case. Applicants own invention only discloses one physical piece of RAM, item 13 in figure 1, for the three separate programs in his invention. Logical allocation of memory space would read on the claim as recited. The prior art uses this logical allocation of memory space. As disclosed on lines 26-30, on column 7, a handle number is used to allocate memory locations. This handle is in effect a pointer(memory address) for the application program to output its control data without the need to know how the rest of the system operates. This allows the application program to be blind to the underlying system operation in the same way that applicant's invention is.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Broadhead whose telephone number is 571-272-6957. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on 571-272-6956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BJB

Bridget Brundhead
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